

DEPARTMENT OF STATE REVENUE**LETTER OF FINDINGS NUMBER: 00-0171 IRP
International Registration Plan (IRP)
For Years 1996, 1997, AND 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. IRP – Estimated Mileage**

Authority: IRP 4010; IRP 5020

Registrant protesting auditor's assessment based on estimated mileage.

II. IRP – Classification of Registrant's Records

Authority: 1999 IRP Information Handbook; IRP 232

Registrant protests auditor's classification of his records as "Marginal."

STATEMENT OF FACTS

Registrant is in the business of selling and delivering sand, stone, and gravel. Inasmuch as registrant's base of operations is located on Indiana's border with an adjoining IRP jurisdiction, numerous jobs included multiple interstate deliveries. The auditor determined that registrant's records were inadequate for apportionment of mileage between the jurisdictions and registrant's records were classified as marginal by the auditor. Additionally; the auditor found no actual miles in Illinois despite miles being reported; consequently, registrant was assessed estimated Illinois mileage. Registrant is protesting these adjustments.

I. IRP - Estimated Mileage

DISCUSSION

Registrant reported actual miles in Illinois but the Department could not confirm these. Auditor assessed an apportionment fee based on estimated miles for Illinois. IRP 4010 states in relevant part:

If the operation of a registrant is expanded to include an additional IRP jurisdiction into which the registrant has not generated miles during the previous mileage reporting period, the base jurisdiction shall calculate the mileage percentage for the added jurisdiction(s) in the following manner:

The estimated miles for the jurisdiction(s) to be added are totaled. Add the Total Estimated Miles to the Total Fleet Miles to obtain the new Total Fleet Miles. The estimated miles are then divided by the New Total Fleet Miles to obtain the mileage percentage for the added jurisdiction(s).

....

Additionally IRP 5020 states in relevant part:

...

If a registrant seeks to apportion its vehicles in a jurisdiction where there was no mileage experience in the previous mileage reporting period, apportionment shall be permitted for one year by including the estimated miles in the denominator of the apportionment factor (total fleet miles) and shall be permitted for a second consecutive year if there are no actual operations in the mileage reporting year.

...

Registrant reported actual miles in Illinois, which the audit could not confirm. Registrant did receive IRP authorization for Illinois. As noted by the above citations, the IRP agreement contemplates such arrangements and inasmuch as registrant did receive the benefit of IRP authorization for travel in the state of Illinois, registrant cannot argue *ex post facto* that his failure to avail himself of said benefit relieves him of the responsibility of payment for it.

FINDINGS

Registrant protest denied.

II. IRP – Classification of Registrant’s Records

DISCUSSION

The issue is based on IRP 232, which states:

“Operational Records” means documents supporting miles traveled in each jurisdiction and total miles traveled such as fuel reports, trip sheets and logs.

The audit and protest both referenced the 1999 IRP Information Handbook as supporting their position. The reference on record keeping requirements is found on page 21, which states in relevant part:

Your operational records must be documents that support the miles traveled in each jurisdiction, and the total miles traveled.

Registrant protested the classification of his records based on the theory that a “A driver going in and out of a state on numerous trips in one day does not have time to stop and record the mileage each time.” Registrant’s protest letter of March 3, 2000. Without commenting on the merit of this argument, the auditor’s determination of marginal records and recommendation did not require these actions by the driver. The auditor’s report stated the registrant’s “recordkeeping was evaluated as marginal due to the fact that all IVMR’s (Individual Vehicle Mileage Records) did not have information that would allow for routing of miles.” and in “the IVMR’s the number of trips to the various destinations was not listed.” IRP audit page 2.

If the registrant’s records had included either route information or number of trips, a calculation of the miles traveled in each jurisdiction would have been possible. Absent information on both of these variables, no means exist to make a determination of the miles traveled in each jurisdiction. Consequently, the classification of the records as marginal was supported by the audit findings.

FINDINGS

Registrant protest denied.